

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIE T. CLARK,

Plaintiff,

v.

Civil Case No. 14-12519
Honorable Linda V. Parker

LAFAYETTE PLACE LOFTS,
WEST CONSTRUCTION SERVICES,
KYLE WESTBERG, BRENT WESTBERG,
ANGELA HOLBROOK, BOB DAVIS, and
STATE OF MICHIGAN DEPARTMENT OF
CIVIL RIGHTS,

Defendants.

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE’S JANUARY
21, 2015 REPORT AND RECOMMENDATION [ECF NO. 42] AND
GRANTING DEFENDANT MICHIGAN DEPARTMENT OF CIVIL
RIGHTS’ MOTION TO DISMISS [ECF NO. 23]**

Plaintiff filed this lawsuit against Defendants claiming violations of the federal Fair Housing Act, the Michigan Persons with Disabilities Civil Rights Act, and the Michigan Elliott-Larsen Civil Rights Act. The matter has been referred to Magistrate Judge Michael Hluchaniuk for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 31.) On August 20, 2014, Defendant Michigan Department of Civil Rights (“MDCR”) filed a motion to

dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1), (3), and (6). (ECF No. 23.) Plaintiff filed a response to the motion on December 29, 2014. (ECF No. 40.)

On January 21, 2015, Magistrate Judge Hluchaniuk issued an R&R in which he recommends that the Court grant MDCR's motion to dismiss on Eleventh Amendment immunity grounds. (ECF No. 42.) Magistrate Judge Hluchaniuk therefore does not reach MDCR's alternative arguments that Plaintiff fails to state a claim upon which relief may be granted and that the federal court is the improper venue to address Plaintiff's challenge to MDCR's determination. At the conclusion of the R&R, Magistrate Judge Hluchaniuk advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.* at 9-10.) He further specifically advises the parties that "[f]ailure to file specific objections constitutes a waiver of any further right to appeal." (*Id.* at 9.) Neither party filed objections to the R&R.

This Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Hluchaniuk. The Eleventh Amendment to the United States Constitution bars Plaintiff's claims against this department of the State of Michigan. *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100-01 (1984); *Simon v. Trieweller*, No. 1:12-cv-1184, 2013 WL 164214, at *2 (W.D. Mich. Jan. 15, 2013) (collecting cases holding that MDCR is a political

subdivision of the state, protected by sovereign immunity). Therefore, the Court adopts the recommendations in Magistrate Judge Hluchaniuk's January 21, 2015 R&R.

Accordingly,

IT IS ORDERED, that Defendant Michigan Department of Civil Rights' motion to dismiss (ECF No. 23) is **GRANTED** and it is **DISMISSED** as a party to this lawsuit.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: February 26, 2015

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, February 26, 2015, by electronic and/or U.S. First Class mail.

s/ Richard Loury
Case Manager